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8 July 1949

OGC Has Reviewed

Assistant Chief, Fiscal Branch

Office of the General Counsel

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Pay Increase -

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1. Reference is made to your office memorandum of 6 July 1949, transmitting therewith Standard Form 50, Notification of Personnel Action, applicable to  indicating the nature of the action as Pay Increase (Periodic), and inviting our attention to Comptroller General's Decision B-84497, dated 2 May 1949, which would appear to affect his eligibility to within grade salary advancement. Pursuant to the authority of section 2.3 (b) of the civil service rules, the Commission has prescribed a within-grade salary advancement plan for persons serving under temporary appointments and emergency-indefinite employees. This plan is equivalent to the provisions of the Classification Act of 1923 as amended, applicable to employees occupying permanent positions. In this regard, you will note that section 2.114 (f) has been amended to provide as follows:

"Persons serving under temporary appointment pending establishment of a register and emergency-indefinite appointment in positions within the scope of the compensation schedules of the Classification Act of 1923, as amended, shall receive periodic within-grade salary advancements and additional within-grade salary advancements as rewards for superior accomplishment in accordance with Subpart B and Subpart E of Part 25 of this chapter, respectively, in the same manner, and to the same extent, as if they were subject to the salary advancement act of August 1, 1941, as amended."

2. A note has been appended to Sec. 25.201 Federal Employees Pay Regulations, to indicate that the regulations applicable to permanent positions also are applicable in granting within-grade salary increases to temporary-indefinites who are entitled to such increases by virtue of section 2.114 (f). You will also note that section 25.501 of the same regulations, has been amended in like manner.

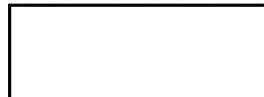
3. This matter has been informally discussed with the Commission which advises that where there is no limitation as to time, temporary appointments, for the purpose of within-grade salary advances, equate to permanent employees. It was stated that at the present time the only category of employees not entitled to within-grade salary advancement are the straight temporary and the temporary with a definite time limitation. In this regard, you will note that the Decision referred to in your memorandum involved a temporary appointment with a definite time limitation. 126

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4. Your attention is invited to the changes in the Federal Personnel Manual required by Transmittal Sheet No. 253 dated February 1, 1949, concerning the deletion of certain sentences in sections 25.221 and 25.502.

5. According to the Commission, the within-grade salary advancement plan prescribed under the authority of section 2.3 (b) was effective as of 1 June 1948.

6. In view of the foregoing it is the opinion of this office that the employee concerned is entitled to the within-grade salary advance, in the same manner, and to the same extent, as employees occupying permanent positions.



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